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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,588	11/24/2003	Jeffrey Cooke	85272P-P	5019

7590 08/11/2004

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EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/720,588	Applicant(s) COOKE ET AL.	
	Examiner Kevin R Kruer	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to a method of making a display panel, classified in class 427, subclass various subclasses.
- II. Claims 8-14, drawn to a display panel, classified in class 428, subclass 411+.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made.

The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product could be made by a materially different process. For example, the product could be made by laminating the image carrying layer to the support layer.

3. During a telephone conversation with Frank Pincelli on August 3, 2004 a provisional election was made without traverse to prosecute the invention of Group II, claims 8-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-7 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Art Unit: 1773

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Priority

5. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

6. The drawings filed November 24, 2003 are accepted.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 3,615,443).

Smith teaches a printing plate comprising a support, a hardened gelatin emulsion layer, and a reflecting layer between the emulsion and the support (abstract). The reflecting layer may comprise a gelatin binder (col 5, lines 56+) and is herein understood to read on the claimed gel coat of claim 13. The

support may be aluminum, paper, or plastic and is herein understood to read on the claimed "opaque support layer" of claim 8. The emulsion layer is ink receptive (col 6, lines 65+).

The preamble limitation is not considered to limit the structure of the claimed invention. MPEP 2111.02 states that a preamble is not considered a limitation and is of no significance to claim construction when the preamble merely states the purpose or intended use of the invention.

9. Claims 8, 10, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 50023454A (herein referred to as Ibigawa)

Ibigawa teaches a substrate comprising 5 layers of kraft paper overlaid with a printed paper. The printed paper is subsequently overlaid with an overlay paper (abstract). Herein, the 5 layers of kraft paper read on the claimed "opaque support layer," the printed paper reads on the image receiving layer, and the overlay reads on the waterproof overcoat in so much that any layer is going to provide some level of water-proofing.

10. Claims 8-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsubai et al (US 4,510,228).

Tsubai teaches a photosensitive element for producing printing plates comprising a support, an undercoating layer, and at least one gelatin-containing layer including a silver halide emulsion layer (col 2, lines 60+). The support may comprise metals or papers (col 6, lines 14+) and is herein understood to read on the claimed "opaque support layer." Alternatively, the support may be a plastic film or a plastic coated paper (col 6, lines 14+), each of which is understood to

Art Unit: 1773

read on the claimed "plastic material" of claim 11. The emulsion layer is herein understood to read on the "image carrying layer" and is understood to be "ink receiving" because Tsubai teaches the laminate may be used in printing (col 3, lines 31+). The undercoating layer may comprise gelatin and is herein understood to read on the claimed "gel coat" of claim 13.

The preamble limitation is not considered to limit the structure of the claimed invention. MPEP 2111.02 states that a preamble is not considered a limitation and is of no significance to claim construction when the preamble merely states the purpose or intended use of the invention.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubai et al (US 4,510,228), as applied to claims 8-11 and 13 above, and further in view of Ormsbee (US 3,552,315).

Tsubai is relied upon as above. Specifically, Tsubai teaches that the support may comprise a metal but does not specify that the metal may be aluminum. However, Ormsbee teaches a lithographic printing plate wherein the base may be aluminum (col 2, lines 49+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize

Art Unit: 1773

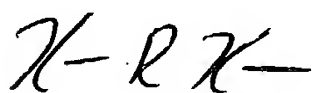
aluminum as the metal base taught in Tsubai. The motivation for doing so would have been that Ormsbee teaches that aluminum is a suitable metal base for a lithographic printing plate.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer
Patent Examiner-Art Unit 1773